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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,443	07/18/2006	Shunsuke Nakamura	2006_1118A	5600
513 7590 09/24/2008 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021				
EXAMINER				
CHAN, KAWING				
ART UNIT		PAPER NUMBER		
2837				
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09/24/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/586,443

**Applicant(s)**

NAKAMURA ET AL.

**Examiner**

Kawing Chan

**Art Unit**

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 7, 13, 14, 17 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 13, 14, 17 and 23-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/06)  
Paper No(s)/Mail Date 07/18/06
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 07/18/06 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by examiner.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Redmann (WO 9322762 A1).
5. In Re claim 1, with reference to Figures 1-2, Redmann discloses a method and apparatus for tracking movement to generate a control signal for music generation (Abstract), wherein the apparatus includes a semiconductor device (20) having a music generation function comprising:

- Movement section identification means (15) for identifying, from image data of an object continuously imaged and inputted as image data for each frame, each position where the object has moved within the frame by comparing the image data in a plurality of the frames (Pages 5-6; Page 9, Line 26 to Page 10 Line 9; Page 11, Line 29 to Page 12, Line 18; Page 13, Line 34 to Page 16, Line 7; Page 17, Line 31 to Page 19, Line 10), and
  - Music generation means (22) for generating music data corresponding to the position identified by the movement section identification means (Page 10, Lines 10-19).
6. In Re claim 2, with reference to Figures 1-2, Redmann teaches said music generation means generates the music data from a sound source of a music instrument which corresponds to the position identified by the movement section identification means (Page 28, Lines 1-11).
7. In Re claim 3, with reference to Figures 1-2, Redmann teaches said music generation means generates music data by a scale (instruments, volumes and tempo information) which corresponds to the position identified by the movement section identification means (Page 11, Lines 4-28).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 7, 13-14, 17 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redmann (WO 9322762 A1) in view of Swab et al. (US 2004/0000733 A1).

10. In Re claims 7, 13, 17 and 23-25, as we have discussed in claim 1 above, Redmann teaches:

- The semiconductor device having a music generation function (Abstract; Pages 5-6; Page 9, Line 26 to Page 10 Line 9; Page 10, Lines 10-19; Page 11, Line 29 to Page 12, Line 18; Page 13, Line 34 to Page 16, Line 7; Page 17, Line 31 to Page 19, Line 10);
- Imaging means (16) for inputting image data (Page 11, Line 29 to Page 12, Line 18; Page 13, Line 34 to Page 14, Line 32); and
- A music output device (28) for outputting the music data generated by the music generation means (Page 10, Lines 10-19).

11. Although Redmann suggests the imaging means (16) maybe any type of camera (Page 13, Lines 22-33), but it fails to explicitly disclose the imaging means is a mobile electronic device, a mobile telephone and a spectacle instrument, and also the imaging means is capable of transmitting the image data to the semiconductor device.

12. However, with reference to Figures 1-2, 5, Swab discloses a wireless network comprises a spectacle instrument (12) with camera (36, 64) attached, mobile phone (16) and laptop (14). Each of the devices in the network can transmit and receive signal

(image, audio, video) from each other (Abstract; Paragraphs [0033-0035, 0042, 0044, 0045]).

13. Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to have modified the teachings of Redmann and Swab, since it is known in the art to utilize a portable spectacle instrument with camera and Bluetooth module included as the imaging means for inputting data so that image capture by the spectacle instrument can be transmitted to laptop or mobile phone wirelessly; and also it is also well known in the art to utilize mobile phone with camera included as the imaging means since Redmann suggests that any type of camera can be used as the imaging means (Page 13, Lines 22-33).

14. In Re claim 14, with reference to Figure 2, Redmann teaches:

- An image processing means (20) for processing the image data inputted by the imaging means (16) (Page 10, Lines 10-19), and
- A display means (34) for displaying the image data processed by the image processing means (Page 10, Lines 25-30).

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ohshima et al., Kilkis, Mita et al., McClard, Veitch, Kitamura, Kimpara et al. and Hasegawa et al. are further cited to show related teachings in the art.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kawing Chan whose telephone number is (571)270-3909. The examiner can normally be reached on Mon-Fri 9am-5pm.
17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on 571-272-2227. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kawing Chan  
Examiner  
Art Unit 2837

/Jeffrey Donels/  
Primary Examiner, Art Unit 2837